

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 546, FOOD AND DRUGS ACT.

MISBRANDING OF CHEESE.

On or about November 8, 15, 22, and 29, and December 6, 1909, George B. Horton & Sons, Fruit Ridge, Mich., shipped from the State of Michigan into the State of Ohio a quantity of full cream cheese contained in 51 boxes, being branded and labeled as to the respective weights of the said boxes. Examination of the samples of this product made by the Bureau of Chemistry, United States Department of Agriculture, showed it to be misbranded within the meaning of the Food and Drugs Act of June 30, 1906. As it appeared from the findings of the analyst and report made that the said shipments were liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the Northern District of Ohio.

In due course a libel was filed in the District Court of the United States for said district against the above-mentioned 51 cheeses, alleging them to be misbranded for the reason that the said boxes, by pencil figures thereon, incorrectly stated the weight or measure of the contents of the same, and that the said pencil figures did not plainly and correctly state on the outside of the respective boxes the true or actual weight of the contents of same; that the weights stated on the said boxes as to ten of the same were as follows: 29, 30, 29, 30, 31, 31, 32, 31, 30, 29; that the said figures were so placed on the said boxes for the purpose of indicating the number of pounds of cheese contained in said boxes; the actual weight of cheese contained in said boxes was respectively as follows: 26½, 28, 26½, 27½, 28½, 29, 28½, 29, 27½, 26½; that the remaining 41 boxes containing said cheese as part of said shipments bore like pencil figures indicating the weight of the contents of said boxes, which weights were not correctly stated.

Thereupon the F. D. McKinniss Company, of Marion, Ohio, entered its appearance and set up claim to the ownership of the 51 cheeses in question, and the case coming on for hearing, the court, being fully informed in the premises, rendered its decree, finding the aforesaid cheese to have been misbranded, in that said boxes and each of them contained cheese less in weight than the amount indicated on the respective packages by the marks and brands thereon and condemning and forfeiting said product to the United States, with a proviso, however, that upon the payment by said claimant of all the costs in these proceedings and the execution and delivery by said claimant of a good and sufficient bond to be approved by the clerk in the penalty of \$200, conditioned that the said packages of cheese should not be sold or otherwise disposed of contrary to law, that the marshal of said district should forthwith deliver said product to said claimant. The costs having been paid and satisfactory bond furnished in conformity with the terms of the above decree, the product was forthwith delivered to claimant.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *August 5, 1910.*

